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Fed. Bar No. 136416

Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FUZZYSHARP TECHNOLOGIES  
INCORPORATED,

Plaintiff,

vs.

3DLABS INC., LTD.

and

SUN MICROSYSTEMS, INC.

Defendant.

Civil Action No. **07-05948 SBA**

**NOTICE OF MOTION, MOTION  
TO AMEND COMPLAINT, AND  
PROPOSED ORDER**

**Date: September 23, 2008**

**Time: 1:00 p.m.**

NOW COMES Plaintiff, FUZZYSHARP TECHNOLOGIES INCORPORATED  
("FST"), through its attorneys give Notice of a Hearing September 23, 2008 at 1:00 p.m. for this  
Motion to file a First Amended Complaint for Patent Infringement and Demand for Jury Trial  
against 3DLABS INC., LTD. ("3DLABS"), the current Defendant and SUN MICROSYSTEMS,  
INC. ("SUN"), the proposed added Defendant. Exhibit A is the proposed First Amended  
Complaint.

3DLABS has indicated that it will oppose this Motion.

1 The purpose of the Motion is to combine two infringing companies with many common  
2 issues: The same patents, and related products. On information and belief, the SUN hardware  
3 products identified as infringing are based on technology obtained from 3DLABS. 3DLABS  
4 does not have a license so there is no issue of patent exhaustion, or endeavoring to collect twice  
5 on the same money. The following is a simplified explanation of the position of FST: 3DLABS  
6 sells certain technology to SUN and FST is entitled to collect a portion of that money as  
7 reasonable royalties. SUN incorporates the technology in its product and sells the SUN product  
8 for a profit and makes additional money on the technology from 3DLABS. FST is entitled to  
9 collect a portion of the increased money related to the SUN product as reasonable royalties.  
10 Hence, the royalties are on two different portions of the transactions, and FST is not endeavoring  
11 to collect twice on the same portion.

12 In addition, SUN is providing software which induces infringement and is contributory  
13 infringement. Notice of relating to this software issue was sent to SUN on April 6, 2003, and  
14 SUN neither responded to the letter, or apparently altered its infringing activities.

15 APPLICABLE LAW

16 The Court has the power to grant leave to amend the Complaint under Fed. R. Civ. P.  
17 15(a) even if the Defendant 3DLABS opposes the amendment. This is the first request to amend  
18 the Complaint.

19 Therefore, leave to file the proposed First Amended Complaint is respectfully requested.

20 THE PLAINTIFF  
21 FUZZYSHARP TECHNOLOGIES  
22 INCORPORATED

23 /s/

24 David Fink

25 DONE AND ORDERED THIS DAY

26 Date:

27  
28 U.S. District Judge S. B. Armstrong

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3DLABS INC., LTD.

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SUN MICROSYSTEMS, INC.

Defendant.

Civil Action No. **07-05948 SBA**

**FIRST AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT  
AND DEMAND FOR JURY  
TRIAL**

NOW COMES Plaintiff, FUZZYSHARP TECHNOLOGIES INCORPORATED  
("FST"), through its attorneys, and files this First Amended Complaint for Patent Infringement  
and Demand for Jury Trial against 3DLABS INC., LTD. ("3DLABS"), and against SUN  
MICROSYSTEMS, INC. ("SUN"). In support thereof, Plaintiff FST states as follows:

**JURISDICTION AND VENUE**

1. This is an action for patent infringement of United States Patent No. 6,172,679 (hereinafter “the ‘679 Patent”), and United States Patent No. 6,618,047 (hereinafter “the ‘047 Patent”) pursuant to the laws of the United States of America as set forth in Title 35 Sections 271 and 281 of the United States Code.
2. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Sec. 1338(a) and 28 U.S.C. Sec. 1331.
3. Venue is proper in this judicial district under 28 U.S.C. § 1391(d).
4. Plaintiff FST, is a corporation organized under the laws of the State of Nevada.
5. Defendant 3DLABS is a corporation having a principal office in the State of California.
6. Defendant SUN is a corporation having a principal office in the State of California at 4150 Network Circle, Santa Clara, CA 95054.

**INTRADISTRICT ASSIGNMENT**

7. This is an action for Patent Infringement, which is an excepted category under Civil L.R. 3-2(c). Pursuant to Civil L.R. 3-2(c), this action is assigned on a district-wide basis.

**CAUSES OF ACTION FOR PATENT INFRINGEMENT**

8. On January 9, 2001, the ‘679 Patent entitled “VISIBILITY CALCULATIONS FOR 3D COMPUTER GRAPHICS”, was duly and legally issued to Hong Lip Lim, as the sole patentee.
9. The ‘679 Patent is assigned entirely to Plaintiff FST
10. Plaintiff FST is the sole owner of the ‘679 Patent, and has standing to bring this action.
11. On September 9, 2003, the ‘047 Patent entitled “VISIBILITY CALCULATIONS FOR 3D COMPUTER GRAPHICS”, was duly and legally issued to Hong Lip Lim, as the sole patentee.

12. The '047 Patent is assigned entirely to FST.

**COUNT ONE**

13. Plaintiff FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

14. Defendant 3DLABS is engaged in direct infringement of at least claim 1 of the '679 Patent pursuant to 35 U.S.C. § 271(a), in its use, development and testing of products in the United States, and the sale of the products in the United States. The Defendant 3DLABS's infringing products are at least as follows: Wildcat graphic products and Sun OEM Products incorporating the use of occlusion query.

**COUNT TWO**

15. Plaintiff, FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

16. Defendant 3DLABS is engaged in direct infringement of at least claim 12 of the '047 Patent pursuant to 35 U.S.C. § 271(a), in its use, development and testing of products in the United States, and the sale of the products in the United States. The Defendant 3DLABS's infringing products are at least as follows: Wildcat graphic products and Sun OEM Products incorporating the use of occlusion query.

**COUNT THREE**

17. Plaintiff FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

18. Defendant SUN is engaged in direct infringement of at least claim 1 of the '679 Patent pursuant to 35 U.S.C. § 271(a), in its use, development and testing of products in the United States, and the sale of the products in the United States. The Defendant SUN's infringing products are as follows: SUN XVR-500 incorporating technology from 3DLABS, SUN XVR-600 incorporating technology from 3DLABS, SUN XVR-1200 incorporating technology from 3DLABS, and SUN XVR-2500 incorporating technology from 3DLABS.

**COUNT FOUR**

19. Plaintiff, FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

20. Defendant SUN is engaged in direct infringement of at least claim 12 of the '047 Patent pursuant to 35 U.S.C. § 271(a), in its use, development and testing of products in the United States, and the sale of the products in the United States. The Defendant SUN's infringing products are as follows: SUN XVR-500 incorporating technology from 3DLABS, SUN XVR-600 incorporating technology from 3DLABS, SUN XVR-1200 incorporating technology from 3DLABS, and SUN XVR-2500 incorporating technology from 3DLABS.

**COUNT FIVE**

21. Plaintiff FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

22. Defendant SUN is engaged in inducement of infringement of at least claim 1 of the '679 Patent pursuant to 35 U.S.C. § 271(b) by providing Sun OpenGL for Solaris Software including an extension for occlusion testing despite being warned of this activity in a letter dated April 6, 2003.

**COUNT SIX**

23. Plaintiff, FST, repeats and incorporates herein the allegations contained in paragraphs 1 through 12 above.

24. Defendant SUN is engaged in contributory infringement of at least claim 1 of the '679 Patent pursuant to 35 U.S.C. § 271(c) by providing Sun OpenGL for Solaris Software including an extension for occlusion testing despite being warned of this activity in a letter dated April 6, 2003.

**JURY DEMAND**

25. Pursuant to Fed. R. Civ. P. 38, Plaintiff hereby demands a jury trial as to all issues in this lawsuit.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court to:

- a. enter judgment for Plaintiff on this First Amended Complaint for each of the Defendants;
- b. order that an accounting be had for the damages caused to the Plaintiff by the infringing activities of the respective Defendants;
- c. award Plaintiff interest and costs;
- d. enter a permanent injunction to enjoin the respective Defendants and those in privity with or acting in concert with each of the Defendants from further infringement of the '679 Patent and the '047 patent during the remainder of respective terms for which the patents have been granted; and
- e. award Plaintiff such other and further relief as this Court may deem just and equitable.

THE PLAINTIFF  
FUZZYSHARP TECHNOLOGIES  
INCORPORATED

/s/ \_\_\_\_\_  
David Fink